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they were fomented to embarrass Eisenhower.

Fortunately, the people are alert. They know that the Republican administration permitted the U-2 episode to occur simply by failing to take necessary precautions.

The people know that summitry has always been dangerous business and they recall that John Foster Dulles repeatedly engaged in brinkmanship diplomacy—pushing the country to the very brink of catastrophe.

The people are no fools. They are aware that our relations in the world have deteriorated greatly in the past 8 years—under the leadership of a wartime hero whose regime is turning out to be a flop.

Not only is the cold war colder, but we have lost friends in the Far East, lost ground in Latin America, permitted the Communists to set up a regime in neighboring Cuba, lost NATO friends by disclosure of bases from which the U-2 operated, lagged in the missile race, and generally failed to provide the leadership for free peoples the world over.

Now, as another presidential election approaches we are told that these things aren't really blots but are assets which will turn out to be good—if we just wait long enough.

Like we said, the brainwashers are trying to make out like black is white. But then, a man named Hitler once said if you tell one big enough it might be believed.

Address of Hon. John F. Shelley, Knights of Columbus Dinner, Hotel Claremont, May 29, 1960

EXTENSION OF REMARKS

OF

HON. JOHN W. McCORMACK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Saturday, July 2, 1960

Mr. McCORMACK. Mr. Speaker, under permission to extend my remarks I include a splendid address made by our distinguished friend and colleague, the gentleman from California [Mr. SHELLEY], at a Knights of Columbus dinner held in Claremont, Calif., on May 29, 1960.

As our distinguished colleague well said:

On the international scene, there is challenge of the cold war, with its unpredictable twists and turns. The quick-change artists of the Kremlin juggle the hopes of peace and the threat of warlike oldtime vaudeville performers. We as Americans cannot afford to be taken in by any Communist trickery. We must not become the world's largest bouncing ball in the hands of Communist manipulators and jugglers.

As Congressman SHELLEY also well said:

But the cold war is, in fact, the grim contest between those who are dedicated to freedom—human freedom and its whole brilliant range—religious, political, personal—opposing those who seek to destroy it.

The splendid address of Congressman SHELLEY is appropriate to the world of today. His address should be as widely read as possible:

ADDRESS OF HON. JOHN F. SHELLEY, KNIGHTS OF COLUMBUS DINNER, HOTEL CLAREMONT, May 29, 1960

Mr. Toastmaster, right reverend monsignori, reverend fathers, past and present grand and worthy knights, sir knights, and

your lovely ladies, no words of mine could adequately express the gratitude and the humility I feel for the signal honor you have conferred upon me today and this evening. We have been friends, most of us, for many years, and you will understand without my telling you, that this day will be for me an abiding source of gratitude and inspiration, and I say that on behalf of today's fourth-degree class.

I'm particularly happy to have this opportunity to speak with you as one American Catholic to another in this turbulent year of grace 1960.

If ever we, as Catholics, were called upon to demonstrate the qualities of good citizenship in our beloved country, that time is now.

On the international scene, there is challenge of the cold war, with its unpredictable twists and turns. The quick-change artists of the Kremlin juggle the hopes of peace and the threat of war like oldtime vaudeville performers. We as Americans cannot afford to be taken in by any Communist trickery. We must not become the world's largest bouncing ball in the hands of Communist manipulators and jugglers.

To the everlasting credit of the Catholic Church, she has never once taken her eyes from the central fact that communism is a religion: The religion of no God: The religion of an all-powerful tyranny from whose decisions there is no appeal, even in the moral order.

And remember this: When communism destroys the divinity of God, it destroys, at the same stroke the humanity of man. It makes of man nothing but a creature without a soul, totally dependent on the whim of the state.

If the sometimes smiling confidence men of the Kremlin have blurred that harsh fact for some of our fellow Americans, the Chinese Communists, with merciless determination, restored the image by their shattering of families, their relentless persecution of all religion; their implacable hostility to the United States.

We have the honor to be singled out as enemy No. 1—and, therefore, as the supreme objective of Communist scheming—not so much because of our power or wealth, but, I suspect, for another reason.

With all our faults—and we are not yet perfect, as a people—but with all our faults, we remain as a nation dedicated to this proposition: That free men can govern themselves with justice and dignity and honor. As Woodrow Wilson once phrased it: "Free men need no guardians."

Within the very cornerstone of this Nation, there is written this eternal defiance of tyranny, Communist or other: "Governments derive their just powers from the consent of the governed." How could communism or any other tyranny stomach that principle?

If the cold war today were simply a matter of two differing forms of government at odds with each other, that would be one thing.

But the cold war is, in fact, the grim contest between those who are dedicated to freedom—human freedom and its whole brilliant range—religious, political, personal—opposing those who seek to destroy it.

You and I as mature Americans recognize how deep is the challenge to our convictions. The challenge to remain levelheaded through every twist and turn of the devious strategy of the Communists.

We know what an appalling catastrophe nuclear warfare would be. But we also know what an unspeakable disaster it would be for us to be either deceived or intimidated into surrendering our heritage of freedom.

Tomorrow, you and I joint with all our fellow Americans to pause for a moment and hear the high clear notes of "Taps" sounding

out in living salute to American fighting men of every generation and race and faith who gave their lives to keep that heritage intact.

Memorial Day, I believe, speaks to us this year with greater urgency than ever before.

The Colonials who abandoned their plows and reached for their rifles to fight the bitter war of Independence knew perfectly well what they were up against. There they were, living practically at the ocean edge of a vast wilderness, defying the might of the British Empire. Washington knew, and Hamilton, and Thomas Jefferson, and Benjamin Franklin and the other leaders, that their own lives were forfeit if this Revolution failed.

They knew the odds against them.

But they knew also that here in America men walked upright, self-reliant, refusing to be exploited by the absentee government. It was freedom they fought for, from Lexington on through the cruel days and nights of Valley Forge to final victory at Yorktown.

Our infant Nation was scarcely out of its cradle when war struck again, and again Americans had to fight to preserve what they had won. Andrew Jackson's men at New Orleans included just about every kind of American imaginable, and maybe even a philosopher or two. They knew what they were fighting for—their own freedom; their own right to govern themselves as Americans, not as subjects of any crown or any imported bureaucracy.

As our Nation grew, as self-reliant pioneers thrust back the wilderness, so too did the confident heritage of freedom become stronger.

Under the heartbreaking tragedy of the Civil War, when brother fought against brother, and our Nation seemed on the verge of disruption, the resolute but deeply compassionate Abraham Lincoln held our country together.

Americans had their first call to overseas battle in the Spanish-American War.

Since that time, our sons have given their lives in battle on the continents of the earth; on the islands of all the seas, in the skies and oceans of the world.

Thanks to their heroism, their sacrifice, we gather here tonight as free men.

Think for a moment—how many nations are there now wherein a meeting like this would be impossible?

Tomorrow, as Catholics and as Americans, every one of us will pray for the eternal repose of the souls of those who died for us, whatever their generation, their race, their faith.

And as we remember with deep gratitude their sacrifice for us, I hope we shall ponder the meaning of their sacrifice.

For these honored dead must not have died in vain.

It remains, as Lincoln said, for us, the living, to advance their work.

The heritage of freedom is in our hands, new, enriched by their heroism.

The question remains: Do we appreciate, do we really understand what it means to be citizens in a democracy?

I often think of the words of Pope Pius XII, discussing the contract between dictatorship and democracy: "If the possibility of controlling and correcting the action of those in power had not been lacking, the world would not have been dragged into the hurricane of war."

And again, discussing the citizen in a democracy, Pius XII said: "To express his own opinion concerning the duties and sacrifices which are imposed on him; not to be forced to obey without having been listened to; there are two of the citizen's rights, which have their expression in democracy."

What happens, then, when a citizen ignores the great political questions of the day?

What happens when here in America, only a few sometimes bother even to vote?

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We hear of voter apathy, voter indifference, and it reminds me of the cynical old saying that the grandfathers die on the barricades to win the rights that the grandsons don't even bother to exercise.

How many people like you and like me would give their right arm for the chance to vote in a free and open election? Think now of the people of China, of Hungary, of Poland, of East Germany, of Czechoslovakia, and the whole sad company of captive satellite nations.

Why else did Hungarian youth, in a glorious and unforgettable blaze of heroism, make their barehanded attack upon the armor of their Communist masters?

They and others like them were trying to win what we in America have: The right to control their own affairs; a voice in the shaping of their national policy.

It seems to be that of all people, we American Catholics should most appreciate the rights and privileges of our citizenship.

In this year, confronted as we are with the complex problems of the cold war, we have the solemn obligation of voting for a President.

It so happens that one of the candidates is a Catholic and thus, whether you and I like it or not, we become the objects of the critical scrutiny of our fellow Americans.

I firmly believe that no one should vote for a candidate because he is a Catholic.

The Catholic Church embraces Americans of both political parties, and Catholics have made significant contributions to both parties at every level.

I hope, as you do, that religious intolerance will not manifest itself in the months ahead.

And I most sincerely hope that Catholics will not lay themselves open to the charge of injecting the religious issue into the campaign.

We have come far, in this country, from the days when Catholics were a puzzle, a mystery, something to be feared, avoided or thrust aside.

I need not remind you tonight of the recent campaign on proposition 13.

Many regrettable things were said, many false charges were made, and a few attempts to arouse bigotry were undertaken.

But the great majority of Californians understood what the issue was and resisted, to a gratifying degree, the blandishments of bigotry.

I accept this as a compliment to Catholics generally.

I believe that as people not of our faith had a chance, over the years, to size us up, to rub elbows with us, to associate ever more closely with us, they realized that we are not a group apart.

We are accepted as other Americans and we are judged by the kind of people we show ourselves to be.

Are we good citizens?

Do we try to pull our oar in the boat, to do our part as good citizens in our community?

Do we give our time and effort to help worthwhile community projects?

Do we make it easy and comfortable for our fellows not of our faith to know us and associate with us?

We are not a special interest group in this country and I'd like to give you just one example of that from my own experience and personal knowledge.

When the Federal aid to education bill came before the Congress, the position of the church regarding parochial schools' inclusion in the bill was sent to various Members of Congress.

It was a reasonable position, and some felt that parochial schools should be included in the list of beneficiaries.

It became clear, however, that if such an attempt were made—that is, an attempt

to include parochial schools—the whole Federal aid program would be defeated.

Catholic spokesmen pointed out that, rather than deprive any American youngster of the benefits of this program, the church would not press its own position in the matter.

This was mature, completely patriotic and generous action, whereby the church subordinated its own interest for the benefit of others.

As American Catholics, we have, I believe, a special contribution to make to our communities and our country.

First and foremost, of course, our position regarding communism is fixed. Regardless of what twists the party line may take, Catholics have had this evil and monstrous thing dissected for them time and again, and they know its evil.

I urge those of you who may not have done so recently to pick up and read again Pope Pius XI's letter on atheistic communism.

Read it carefully, read it thoughtfully, and you will observe certain prophetic aspects about the heartbreak and tragedy communism would bring into the world.

Catholics also have an enlightened sense of the need for helping the distressed of the world.

We, of all people, can never forget the plight of those across the world from us.

Where men and women and children are trapped in grinding and almost hopeless poverty, they may very easily, from their own despair, turn to the deceits of communism as a way out.

Technical assistance programs and programs of aid are not simply matters of good policy on the political level. They are an expression of the charity that lies deep in the heart of the American people.

Never forget this: While the enemies of our country ridicule and mock us as ignorant materialists, selfish exploiters, interested in nothing but money, the foreign aid programs brand such propaganda as a pack of contemptible lies.

In our thinking about the Communist threat and the plight of underprivileged nations, we must remember the story of Fatima.

The Russian people are the first captives, the first victims of the Communists, and in our thinking and our prayers, we must distinguish between the decent and good people of Russia and their ruthless masters.

The message of Fatima gives to Catholics throughout the world a new dimension and, indeed, a new weapon for combating this atheistic monstrosity: We see it not simply as a political or social or economic theory, but as a moral evil to be fought with the weapons of the spirit: prayer and meaningful penance.

In addition to our view of the world situation, I believe that our background as a sometimes unwelcome minority in certain areas gives us added insight into the problems of other minority groups.

Certainly we know what the denial of civil rights can mean to a people.

We knew once what it meant to be regarded as second class citizens.

Those days have come pretty much to an end, now.

But the task remains for us to see that such days are ended for all times for all Americans.

Most of us in this room have lived to see the sweep and tempo of American history speed up tremendously.

We have seen the concept of social justice expanded beyond anything one might have dreamed of 50 years ago.

We have seen legislation passed which, at the beginning of the century, would have seemed impossible.

While much remains to be done, let us not forget that much has already been done to make life better for all Americans.

We shall never create, here on earth, the conditions of Paradise.

But we have always before us the vision of an ever finer and greater nation; a people moving always forward, sometimes swiftly, sometimes slowly, but always forward to a realization of the American dream.

Progress is not achieved without the clash of judgment and opinion, and that is as it should be in a democratic society.

Let us hear every man's opinion, for no one has an exclusive monopoly on intelligence.

This year, above all, let us, as Catholics, conduct ourselves before the eyes of our countrymen with intelligence, self-respect, balance, and charity.

It is not for us to impute motives to those who may not agree with our position in one or another field of national interest now.

But it is our duty, and it devolves upon every one of us without exception, to remember that if the turn of the wheel touches off questions about the church and state; if at times we are made to answer questions about our faith, let us answer such questions from an informed mind and an understanding heart.

The Holy Father has said that in times like these it is permitted to no one to be mediocre.

For us, I believe, that means many a long and thoughtful meditation on the blessings God has given us in this blessed land of ours.

It means pondering deeply the silent but eloquent message of Memorial Day: that others had died for us—to give us the chance to make their sacrifice meaningful by our conduct as citizens of this great Nation.

Let nothing narrow or petty or mean emanate from us this year, even under the most exasperating provocation.

For our fellow Americans have a tremendous sense of fair play, and they will not mistake forbearance for timidity or cowardice.

There are members of both political parties in the ranks of our order.

In this year and the years to come, let us act according to our best intelligence and conscience as citizens, doing our utmost in however great or humble a way to make this blessed Nation an ever greater expression of freedom; a mighty beacon in the turbulent world showing forth clearly and steadily that free men indeed can govern themselves with dignity and justice and honor; that free men need no guardians; that, with God's blessing, government of the people, by the people, and for the people, shall not perish from the earth.

Captive Nations Week, 1960

EXTENSION OF REMARKS

OF

HON. HOWARD W. ROBISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Saturday, July 2, 1960

Mr. ROBISON. Mr. Speaker, I wish to draw the attention of my colleagues to the fact that Captive Nations Week will be observed July 17-23, 1960.

During the 1st session of the 86th Congress, Public Law 86-90 was enacted expressing the sense of the Congress that the President should proclaim the third week in July as Captive Nations Week and that similar proclamation should be made each year until such time as freedom and independence from Communist imperialism shall have been achieved for all the captive nations of

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the world. Therefore this year's observance will be the second Captive Nations Week.

Mr. Speaker, I know I reflect the opinion of my colleagues when I state that I hope the reason for observing Captive Nations Week will not exist for many more years. However, so long as these nations remain under the domination of international communism, we of the United States will remind them annually that our hearts are with them and our prayers as well.

I am proud to be an honorary member of the National Committee on Captive Nations Week and I commend the committee, its chairman, Dr. Dobriansky, its executive director, Mr. Connor, its secretary-treasurer, Mr. Skubik for their excellent activities in stimulating the formation of local committees throughout the Nation to organize proper ceremonies and observances of Captive Nations Week, 1960.

The Congressional Investigating Committee

EXTENSION OF REMARKS

OF

HON. THOMAS J. LANE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Saturday, July 2, 1960

Mr. LANE. Mr. Speaker, under leave to extend my remarks in the Record, I include a very interesting article which appeared in the Suffolk Law Reporter:

THE CONGRESSIONAL INVESTIGATING COMMITTEE

(By Jordan L. Ring, 1960)

(Senior Jordan Ring, author of this article, is top student in the law school and plans to do graduate law work at Harvard next year, under scholarship.)

Power and the constitutional right to exercise a particular power are two distinct considerations in the philosophical concept of governmental scope and function. One endeavoring to categorize contemporary congressional investigatory practices in one of two categories can find persuasive arguments in mass for his favored position thereon. But it shall not be the purpose of this particular analysis to pursue the justification of either abstraction. Rather, the ultimate consideration herein focuses narrowly upon the jurisdiction aspect that confronts one who must deal defensively with an investigating committee's asserted authority on the plane of jurisdiction over the person and the matters closely related thereto.

Basic generalities of constitutional law have no little importance in this regard. Fundamentally, our National Government, in dealing with the internal aspects of their particular functions, is one of delegated powers, which power is either specifically enumerated within the four corners of the Constitution or found to be a necessary and proper power implied therein. Therefore, every function of our Congress is directly dependent for its constitutional legality upon the adherence to the aforesaid principle. It is axiomatic that a Federal investigating committee has no greater authority over a person or persons than the sum total of its creators' authority—Congress. If, therefore, Congress has exceeded its authority in the establishment of a given committee, then we

have an ultra vires body—a nullity. In a related sense, the jurisdiction of a particular committee to compel the appearance of an individual before it is directly dependent upon congressional authorization in the main, which congressional authorization is directly dependent by way of justification upon the Constitution. Hence, initially, at least, the basic and logical challenge of a committee's jurisdiction over a person can be leveled at its very right to constitutionally exist, although it may be submitted at the very outset that his fundamental challenge is broader in theory than in practical application in the light of contemporary legislative and judicial liberalism in this particular field of thought.

The general power of Congress to create and vest a committee with capacity to compel obedience to its jurisdiction is a firmly established concept. *McGrain v. Daugherty*, 273 U.S. 135; 71 L. Ed. 580; 47 Sup. Ct. 319; 50 ALR 1. It is vitally important, however, to consider carefully the general authority of Congress in order to analyze whether in any particular instance a given committee is beyond the borders of constitutional concern. [Thus, the question to be carefully considered is where does the general authority come from and what are the reasons for its basic justification.]

McGrain v. Daugherty, supra, precisely points out that nowhere in the framework of the Constitution is there specifically enumerated authority giving to Congress the power to create legislative investigating committees. Nevertheless, from the standpoint both of English and colonial history and from the view of practicality, the Court held such authority to be a necessary and implied power of congressional function. Specifically, in order that any type of intelligent legislation may result from the sessions of Congress, there is an obvious need for specific information relating to any particular matter under consideration by either House. Obviously, it would be sheer fallacy to assume Congress, broad as it may be in membership, could possibly have within itself at all times such a fund of information as would permit it to judge the particular merits of every act, nor to understand the need for certain legislation in matters over which it must protect and regulate. Hence, the need for factual information from without. [Congress, in order to effectuate fruitful results, delegates to a relatively small group of its membership the authority it possesses as a whole to investigate. And from this reason found by the Court to necessitate the existence of such implied authority, we find therein the crux of the limitation of its power to investigate and therefrom the right to compel obedience to its jurisdiction.]

Because of the breadth of the congressional powers * * * (the power to legislate, to judge the qualifications of its Members, the obligation to maintain within the States a republican form of government, to provide for the common defense, to perpetuate its very existence, etc.), it may seem that it would be practically impossible for Congress to select a field for investigation which would not be related to some proper area of congressional concern. Actually, however, there has been one occasion when the Supreme Court failed to find such relevance. That was in the 1880 case of *Kilbourn v. Thompson* (103 U.S. 168; 26 L. ed. 377); testing the legitimacy of a House investigation into the bankrupt firm of Jay Cooke & Co. and its interest in a District of Columbia real estate pool. The Supreme Court ruled that this was not a subject on which Congress could legislate and therefore had no authority to investigate. This case represents the only restrictive decision upon the power to investigate. Mr. Justice Miller said, "We are sure that no person can be punished for contumacy as a witness before either House,

unless his testimony is required in a matter into which that House has jurisdiction to inquire, and we feel equally sure that neither of these bodies possesses the general power of making inquiry into the private affairs of the citizen." The matter under investigation did not come within the range of congressional legislation. While the facts of this particular case are of a minimum of importance, since a similar inquiry today under the Supreme Court's broad concept of the congressional function would certainly be authorized, the principle expounded from that case, nevertheless, clearly sets forth the proposition that Congress has no authority to investigate per se. It cannot launch an investigation from the standpoint of constitutional power merely to expose for the sake of exposure or to delve into the private affairs of citizens merely to bring to light undesired, although legal, courses of conduct and pursuances over which it has no power to legislate or is prohibited by the Constitution to abridge. For an analysis of the Kilbourn case and the implications thereof see Congressional Investigation, 37 Cal. L. Rev. 556 (1949); 40 Hvd. L. R. 153 (1926). In order therefore for a congressional investigating committee to have authority over a person the purpose of the investigating committee is of a prime concern; for the purpose of the committee must have some connection with prospective legislation or congressional function or else have no jurisdiction over the person. But how close must the purpose be connected with prospective legislation? As will be hereinafter indicated, very little actual connection seems necessary.

All recent cases dealing with this subject matter have had some relation to security investigations, and while it can never be doubted that these security cases have to a large degree been pressured by the emotional complexion of the Nation, nevertheless, they do outline the basis of judicial philosophy regarding the general topic under consideration. So far as the issue of the Un-American Investigating Committee is concerned, obviously no matter is of a greater importance to Congress than the internal security of the Nation and the protection of its independence and integrity against conspiratorial or subversive attacks. For these clearly proper congressional concerns it is scarcely necessary to cite such expressly stated legislative functions as to "provide for the common defense," "to raise and support armies," and the like. But this security committee seems to have dissipated somewhat the strong constitutional support by being so largely uninterested in making legislative recommendations to Congress. The mere fact that the House had stated in setting up the committee that it was for a "legislative purpose" was generally regarded as binding on the Court. Mr. Justice Clark dissenting in the case of *U.S. v. Josephson* (165 F. 2d 82, 333 U.S. 858), said that upholding the committee's power over the person on this basis made the congressional investigative power limitless for "the dram of good must always sanctify the dubious remainder." As a simply stated proposition, the language of the majority seems to lay down the rule that if Congress claims a particular investigation to be for a legislative purpose the Court will not say that that is not so.

There seems little reason to doubt that Clark's conclusion is actually the correct one to draw from these appellate court decisions, for all the grounds on which limits might have been based were rejected in the Josephson case. Justices Douglas and Black took essentially the same position in their concurring opinion in *U.S. v. Rumely* (73 S.C. at 547). "Inquiry into the personal and private affairs is precluded and so is any matter in respect to which no valid legislation could be had. Since Congress could not by law require of respondent what the House de-

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manded, it may not take the first step in an inquiry ending in fine and imprisonment." In *Borsky v. U.S.* (167 F.2d 241), it was said by the Court that the fact constitutional legislation might ensue from the information derived by an inquiry upon the subject described in the House resolution is sufficient to sustain the committee's jurisdiction. "The potentiality is the measure of the power of inquiry" and this be so even though the legislation that might ensue from such an investigation has a strong possibility of being found unconstitutional, and the mere fact that very little legislation has resulted from a given inquiry is immaterial in considering the committee's constitutional justification. But what if we discharge syllogisms and advance judgments and concentrate rather on the charge that the committee had actually and deliberately sought to get, by publicity and exposure, results which could not constitutionally be secured by legislation. Judge Edgerton in the *Borsky* case, *supra*, said that the committee had intentionally inflicted punishment on certain witnesses by bringing about their dismissal from employment and subjecting them to notorious publicity and held that this met the bill of attainder test in *U.S. v. Lovett* (328 U.S. 303). The majority felt otherwise and completely disregarded substance, looking merely to form. Justice Clark dissenting in the *Josephson* case, *supra*, concluded that the committee was merely investigating for exposure's sake, and this had been proved by the committee's questioning of the witnesses appearing before that body. But the majority of the Court rejected the Clark position by again looking solely to the purpose for which the committee was established and not into the objective mannerisms. Clark went beyond this point and contended the committee's persistent questioning of witnesses as to whether they were members of the Communist Party violated a right to privacy and to freedom from inquiry about political beliefs established by the first amendment and upon which Congress had no right to exact prohibitive legislation, let alone inquire. But both in the *Josephson* and *Borsky* cases the Court disposed of these points by reminding that Congress can curtail freedom if justified by the clear and present danger test and that Congress need not wait until there is a clear and present danger before it can inquire into these matters. All that is required is a possibility of a clear and present danger and that the Court cannot assume in advance that Congress will pass unconstitutional legislation. From what has been set forth above it may well be that legislative investigating committees will have an area of sanctioned inquiry as broad as Congress deems necessary by merely asserting within the enabling act of the committee that the purpose of the said committee is to inquire for proposed legislation and have some broad basis upon which to rest thereon. For it now appears that the Court will not look beyond this point. Thus the original concept of legislative investigation under our system of government appears to have become an obsolete limitation or at least a limitation in form only.

Now, assuming in any given instance the constitutionality of a committee, what is the immediate power over the person to compel compliance with its request to appear? For a contempt of Congress there is no doubt that either House has the inherent power to punish through its own processes outside of the courts. *Marshall v. Gorda* (243 U.S. 521); *Anderson v. Dunn* (6 U.S. 204). In *McGrain v. Daugherty*, *supra*, it was clearly stated that either House, through its own process has power to compel a private individual to appear before it or one of its committees and give testimony needed to enable it effectively to exercise the legislative

function belonging to it under the Constitution. However, the power of Congress to punish for contempt of its own process is limited to imprisonment and the duration to the time of the adjournment of Congress. See 50 ALR 21. Not only may Congress itself punish for the failure to answer a proper question when appearing but in *Jurney v. MacCracken* (294 U.S. 125), the Supreme Court upheld the right of Congress to punish for a past and completed action. In this case the defendant had destroyed records which the committee requested to be brought before it. Thus the fact that the obstruction to the legislation function is removed or is impossible to be removed is completely immaterial in considering the authority to punish. Such a power to punish for past and completed obstructions was exerted by Congress as early as 1795 and is a well settled principle of legislative power. Today, by statute (2 U.S.C. sec. 192; F.C.A. 192) Congress has supplemented the inherent power to punish for contempt. It is to be noted that this statute does not exclude Congress from still rendering punishment through its own process. The constitutionality of this statute was upheld in *In Re Chapman* (166 U.S. 661). Section 192 makes it a misdemeanor for one properly summoned before a committee of either House as a witness to refuse to appear or to appear and refuse to answer or produce material papers or records. It now seems entirely possible, based upon the language in *In Re Chapman*, *supra*, that a party in contempt could be punished both under the statutory procedure and in addition by either House. Of course, a summary refusal of one duly called by a committee to appear before a committee could legally result in the physical removal of a witness to the situs of that committee. Therefore, any attack on a committee's jurisdiction, as a practical matter of concern, should be made at an appearance before the committee. The question of remedies is somewhat dubious and leaves in doubt the question of injunctive relief in a Federal court. However, one wrongfully taken into custody has a right of recourse against the officer but not against the membership of the committee, due, of course, to a congressional Members immunity under article I, section 6, clause 1.

On the issue of what a witness before a committee must answer and what he need not reply to, both section 192, the fifth amendment and the committee's authority are the direct essentials to be considered. The most basic defense here is the fifth amendment—the right to refrain from answering a question amounting to compulsory self-incrimination. As to this particular civil right of the individual, the Court has been liberal in the application of it and conservative to narrow its borders of protection. This amendment is one of such vast scope that it could not be adequately dealt with in this paper in total. But of interesting note here is the recent Supreme Court decision of *Blau v. United States* (340 U.S. 159), which stated in substance that one may refuse to testify if his testimony will "furnish a link in the chain of evidence against himself" and the answer need not be of such a nature as to amount to a crime itself. However, in order to invoke the privilege, the issue of statutory immunity must be considered. In the past Congress has from time to time provided for immunity or protective clauses thereby rendering testimony given before a committee as inadmissible in subsequent trials of a witness by either the Federal or State courts. Such a blanket of protection extended to a witness is binding upon the States as well as the Federal Government. *Adams v. Maryland* (347 U.S. 179). In *Ullmann v. United States* (350 U.S. 422), the Supreme Court held in dealing with an immunity clause passed by

Congress, that once the reason for the privilege ceases, the privilege itself ceases. Thus the Court has laid down the proposition that one may not rightfully refuse to answer a material question without the danger of punishment if Congress has rendered testimony coming within the definition of the statute inadmissible in evidence against the witness at a subsequent trial by Federal or State authorities. For the individual is not then bearing witness against himself. However, it is now incumbent for the witness to determine whether or not he is within the statutes protection, for it is only when you come within the language of the statute that the immunity prevails.

Also a prime importance is the principle that one before a committee need not answer any and all questions directed to him by the committee. It is well established by both judicial decision and expressly set out in section 192 that a witness need answer only those questions pertinent to the question under inquiry by the committee. In order to judge whether a particular question directed by the committee to the witness is pertinent to the question under inquiry, the witness has a constitutional right to know the purpose under investigation. Either House in creating a particular committee must set forth with reasonable certainty the purposes that the committee is to inquire into. Hence, the uncertainty of the committee's scope may well be a ground of attack on the basis of unconstitutionality. The witness may also inquire as of right, from time to time, while before the committee of the relation that a particular question has to the purpose under inquiry by that committee. *U.S. v. Rumely* (345 U.S. 41). In the *Rumely* case the Supreme Court asserted that a committee may not ask a question outside the scope of the resolution creating that committee. There the committee created to investigate lobbying activities asked of the witness a question regarding the publication of books. The Court found no relevancy; thus the question was held to be improper and the conviction for failure to answer was overturned. And in 136 F.2d 791, the Court said in substance that if the committee has no authority to ask the question because it is outside the scope of the committee's purpose, even if Congress subsequently tries to cure the defect by amendment, one who refused to answer a question before Congress amended the purpose of the committee would be guilty of nothing. If the scope is enlarged, the question must be asked again at another committee session. The crux—has the committee authority when the question is asked? In addition to the aforesaid, section 192 provides that the fact an answer to a committee question would tend to disgrace a witness or render him infamous is not a proper ground for the refusal to answer.

The preceding pages give some slight indication as to both the wide breath of congressional power and the heavy burden placed upon counsel for a witness before a committee. Counsel involved with an appearance before one of the many committees of our National Government must give careful and concise attention to the variety of matters discussed. Not only should he consider whether a committee has the constitutional right to exist but he must of necessity become extremely well versed in the scope and purpose of a committee, as well as any immunity clause that may be relevant or become relevant during an appearance before the committee. For if an individual's rights are to be protected against this vast authority of Congress no amount of consideration can be deemed too great. And while the philosophers of governmental authority may find valid criticism for this new form of national power, nevertheless, it does exist and must be dealt with in its existing form.